



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live.

Frank O'Bannon
Governor

Lori F. Kaplan
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8603
(800) 451-6027
www.in.gov/idem

July 15, 2003

Mr. Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604

RE: Recommendations Concerning Air Quality
Designations for the 8-Hour National Ambient
Air Quality Standards

Dear Mr. Skinner:

This letter is in response to the United States Environmental Protection Agency's (EPA) November 14, 2002, guidance memorandum concerning air quality designations for the 8-Hour National Ambient Air Quality Standard (NAAQS) for ozone. That guidance indicates EPA's intention to propose designations in the fall of 2003, and finalize them by April 15, 2004, and requests that states submit recommendations by July 15, 2003.

We all share the goal of air that meets national health standards for our citizens. In Indiana, thousands of citizens suffer from asthma and other respiratory ailments. Unhealthy ozone levels impair their enjoyment of our environment and can result in serious health impacts. This is unacceptable. We have made substantial progress towards our goal of healthy air since passage of the Clean Air Act over 30 years ago.

Designation of areas as attainment and nonattainment under the eight-hour ozone standard, adopted by EPA in 1997, formally begins the process of specific planning and implementation of clean air measures in areas that may not meet the new ozone health standard. Indiana is committed to completing the required planning process and to putting in place the necessary measures to provide healthy air for all of our citizens.

Indiana appreciates the opportunity to provide input and recommendations to EPA. We intend to be fully engaged in this important issue and submit our recommendations through this letter and attachments.

This letter includes several attachments and figures:

- Attachment I is a list of Indiana counties and Indiana's recommendation at this time.
- Attachment II includes analysis and discussion of each area within Indiana, using the criteria in USEPA's guidance documents.
- Attachment III contains additional technical support documentation for that analysis.
- Figure 1 illustrates potentially affected Indiana counties and metropolitan statistical area (MSA) boundaries
- Figure 2 graphically depicts the recommendations listed in Attachment I.
- Figure 3 graphically depicts the areas within Indiana that require review of 2003 ozone season data prior to making any final nonattainment area recommendation.

Indiana's recommendations are contingent upon two very important factors:

1. **Ozone Readings in the Summer of 2003**

We are aware that EPA intends to make final designations based on ozone data from 2001-2003. Our evaluation to date and the recommendations enclosed with this letter are, of necessity, based on 2000-2002 data. For many areas of Indiana, we believe that ozone levels this summer are particularly critical for making a final determination. See Figure 3.

We will provide updated analysis and recommendations to EPA as promptly as possible after the 2003 data are fully quality assured.

EPA should not make any preliminary or final determination with respect to these areas of Indiana until we make our supplemental recommendations subsequent to completion of the 2003 ozone season.

2. **EPA's Implementation Guidance and Mandatory Requirements for Nonattainment Areas**

EPA has not finalized its implementation guidance that outlines the process for determining the regulatory implications of nonattainment status for various types of areas for the eight-hour ozone standard. The draft implementation guidance issued by EPA in May 2003 contains no actual rule language and contains so many options that it is impossible to explain clearly to citizens, local officials, and businesses what will be required if their county is designated nonattainment. Indiana does not support the application of nonattainment area new source review or automobile emission testing requirement or other "mandatory" requirements for any area within Indiana that will meet the new ozone standard within three years of the designation date of April 15, 2004. EPA's analyses to date suggest that most of Indiana, with the possible exception of the Chicago and Indianapolis metropolitan areas, should meet the new eight-hour ozone standard after implementation of currently required state and federal control measures.

We have found through the past two decades that areas designated as "nonattainment" received necessary attention and resources to improve air quality. However, these areas also have been tagged as areas where economic development is difficult and certain types of projects essentially precluded. In the early days of the Clean Air Act, when the air pollutants being addressed had very localized impacts, nonattainment boundaries were a sensible approach to identifying areas where air quality was unhealthy and where sources contributing to that pollution were located. In many cases, the "mandatory" control measures required by the Clean Air Act have been extremely effective in bringing pollution levels down.

As we have learned more about the causes and effects of ozone formation, however, tightly drawn nonattainment boundaries determined primarily by monitored air quality and urban area boundaries make less and less sense. The most significant ozone control programs in recent years, the NO_x SIP Call and federal automobile standards, apply to sources regionwide or nationwide, not just to those in designated nonattainment areas. Air quality analyses to date suggest that most of the counties in Indiana where air quality currently does not meet the 8 hour ozone standard will meet that standard once the NO_x SIP Call is fully effective in 2004.

According to the Clean Air Act and EPA's draft guidance for implementation of the eight-hour ozone standard, any county designated as nonattainment would be automatically subject to stricter new source review requirements for new and expanding sources. While it makes sense to avoid or minimize increases in emissions in nonattainment areas, we now know that these new source review requirements can have unintended consequences that, in many cases, just push new development to the outskirts of a nonattainment area. As a result, these requirements have contributed to sprawl, loss of farmland, and are inconsistent with policies that promote the development of brownfields. Development immediately adjacent to nonattainment areas can have just as deleterious an effect on local air quality as if the development occurred in the nonattainment area itself.

I understand that EPA recognizes this dilemma. However, the current EPA guidance on nonattainment designations and on eight-hour ozone implementation may have the consequence of requiring certain mandatory measures for areas of the country for which those measures are not needed and are not appropriate mechanisms to make progress on clean air. Therefore, IDEM recommends at the outset that EPA defer until 2007 additional mandatory measures on those metropolitan areas and counties that will achieve compliance with the current controls on the books to allow those controls to take effect.

Indiana intends to comment further on the draft guidance, but also must consider these uncertainties in making nonattainment designation recommendations at this time. However, it is difficult for Indiana to recommend nonattainment for areas that may attain the standard after the 2003 ozone season or that are not currently monitoring nonattainment (though they may be in a MSA with a monitor that is currently monitoring nonattainment). Attachments 1 and 2 note these areas within Indiana. In these areas, the consequences of a nonattainment designation are not clear and Indiana is not convinced that certain mandatory requirements

T. Skinner
July 15, 2003

Page 4.

make common sense. Therefore, this uncertainty, combined with potential impact of the 2003 ozone season, convinces us that we should defer our recommendations for these areas until the close of the 2003 ozone season. EPA should not make any preliminary or final determination with respect to these areas until we make our supplemental recommendations.

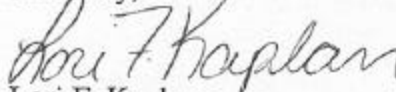
In conclusion, Indiana has carefully reviewed EPA's March 28, 2000 boundary guidance memorandum, Indiana air monitoring data and considerable other data in developing these recommendations. We have consulted with the neighboring states and have solicited input and received comment from interested parties throughout Indiana. We will continue these discussions as the designation process proceeds.

As noted above, Attachment I outlines Indiana's preliminary recommendations concerning area designations and boundaries relevant to the 8-hour ozone standard, based on 2000 - 2002 monitoring data. As noted in Attachments 1 and 2, Indiana is deferring our recommendation for the Evansville MSA until October 2003. As the 2003 ozone season proceeds, we will update our recommendations as appropriate. In addition, depending on the timing of the release of a final implementation rule concerning the eight-hour ozone standard, IDEM may wish to provide updates to recommendations concerning nonattainment classifications. Please note that we have had time to do only a preliminary review of the recently revised Metropolitan Statistical Area (MSA) boundaries. Some discussion is included in Attachment II, but we will supplement this as necessary. At this time, we do not feel that the new boundaries will, in most cases, affect our recommendations. That review is included in the attached analysis, but we may supplement it in the future if needed.

We appreciate the opportunity to provide comments and recommendations to EPA concerning this matter. Likewise, we look forward to working with your staff as EPA moves forward with the designation process.

Should you have any questions or comments concerning IDEM's analysis and recommendations, please feel free to contact Janet McCabe, Assistant Commissioner, Office of Air Quality, at (317) 232-8222.

Sincerely,



Lori F. Kaplan
Commissioner

LFK/jgm/sad

Attachments

cc: Cheryl Newton, EPA-Region 5
J. Elmer Bortzer, EPA-Region